to a public trial, *Dutton* v. *State,* 123 Md. 373; *State* v. *Keeler,* 52 Mont. 205. There is, however, a direct conflict on the question as to whether the trial judge may make an exclusion similar to the one made in the instant case when the testimony about to be given is scandalous, immoral, indecent, disgusting, obscene, or such as might shock the public morals. Contrary to the doctrine of the instant case similar exclusions have been upheld upon the theory that the defendant's right to a public trial is a right to a trial that is not secret; further, that the defendant must show prejudice when there has been a violation of what they term a "literal right;" and, that there is a discretion resting in the judge to exclude as above when he thinks the testimony will injure public morals, *State* v. *Nyhus,* 19 N. D. 326; *Reagan* v. *United States,* 202 Fed. 488; *State* v. *Johnson,* 26 Idaho 609; *Benedict* v .*People,* 23 Colo. 126; *Robertson* v. *State,* 64 Fla. 437. The authorities in accord with the instant case, while admitting that circumstances may sometimes justify an exclusion order, are to the effect that a public trial is a trial at which the public is free to attend without arbitrary restrictions as to particular classes; and, further, that the defendant need not show prejudice, but that damages will be presumed from the violation of his constitutional right, *State* v. *Osborne,* 54 Ore. 289; *State* v. *Hensley,* 75 Oh. St. 255; *People* v. *Hartman,* 103 Calif. 242; *Tilton* v. *State,* 5 Ga. App. 59; *People* v. *Murray,* 89 Mich. 276; *State* v. *Keeler,* 52 Mont. 205. In *State* v. *Keeler* (*supra*) it was said that the constitutional provision giving the defendant in a criminal case a public trial would be meaningless if the excluding order was upheld, for most of those admitted under the excluding order would of necessity be in attendance upon the trial of every felony case as constituents of the judicial machinery. In *State* v. *Osborne* (*supra*) the court thought that the exclusion of the general public might injure the defendant by giving the jury a bad impression and by depriving him of the right to have his friends present to counteract the bad effect of being accused of a criminal offence.

ELECTIONS—VOTES CAST—INELIGIBILITY OF CANDIDATE RECEIVING LARGEST VOTE.—Plaintiff was a candidate for the office of sheriff at an election of the General Assembly in grand committee. His only opponent had resigned from the Assembly on the day before election, because the State Constitution declared an assemblyman ineligible for the office of sheriff. Such resignation, however, was ineffective as a vacation of the office resigned, no successor having been appointed. A statement of the candidate's ineligibility had been made to the Assembly before election. Plaintiff, who received only 37 out of a total of 116 votes, brings *mandamus* against the Attorney General to compel approval of his bond as sheriff. *Held,* that the votes were not cast in such wilful defiance of law as to be thrown away, and therefore the plaintiff, not having received a majority, had not been elected. *Sanders* v. *Rice,* (R. I., 1918), 102 Atl. 914.

The weight of American authority is with the principal case. The so-called English rule, followed in a few American jurisdictions, is *contra* with certain modifications. In *Rex* v. *Hawkins,* 10 East 211, announce-

ment was made before most of the burgesses had voted, that one candidate had not taken the sacrament within the year. He received the majority but his opponent was declared elected, all votes after the announcement being rejected. *Rex* v. *Parry,* 14 East 549 *held* to like effect, the highest candidate being a minor. Later cases emphasize the necessity for knowledge; *Queen* v. *Tewkesbury Corp.* L. R. 3 Q. B. 628 decided that though the winning candidate was disqualified, because he was also mayor, yet mere knowledge that he held that office, without knowledge of its legal import did not so void his votes as to elect his rival. This is a close approach to the American doctrine as is *Rex* v. *Bridge* I. M. & Sel. 76, where notice of disqualification was not given until half an hour after the polls opened. *Trench* v. *Nolan,* 20 Weekly Reports 833, while deciding for the minority candidate, reaches its conclusion on the express ground that knowledge of open bribery as a ground for disqualification will be presumed. In England, then, if knowledge be brought home to the voters their votes are thrown away, "as if they had voted for the man in the moon," to quote Lord Campbell in *Queen* v. *Coaks,* 3 El. & Bl. 248. The Indiana courts have elected to follow the English rule and refuse to count votes cast for an ineligible, *Copeland* v. *State,* 126 Ind. 51, and *State* v. *Johnson,* 100 Ind. 489. However in *State* v. *Bell,* 169 Ind. 61, the doctrine was rejected in the absence of evidence that the voters had "wilfully and obstinately" cast away their votes. The English rule has been approved also in Kentucky, Louisiana and Maryland, and with qualifications in Missouri and Wisconsin. In *State* v. *Frear,* 144 Wis. 79, the majority candidate died on the eve of the primaries, but since the newspapers published that fact, and a certain faction of the party solicited votes for the dead man, it was *held* that to declare a vacancy would be a fraud on the honest electors, since those voting for the deceased had deliberately waived the privilege of valid franchise by its corrupt exercise. The contrary view was adopted in *State* v. *Walsh,* 7 Mo. App. 142, where the voters with knowledge of A's death voted for him nevertheless and their votes were counted to defeat B, his rival. *People* v. *Clute,* 50 N. Y. 451, expressly approved in *Barnum* v. *Gilman,* 27 Minn. 466, sums up the attitude of the American courts on this question; "the existence of the fact which disqualifies, and of the law which makes that fact operate to disqualify, must be brought home so closely and so clearly to the knowledge or notice of the elector, that to give his vote therewith indicates an intention to waste it. The knowledge must be such, or the notice so brought home, as to imply a wilfulness in acting, when action is in opposition to the natural impulse to save the vote and make it effectual. He must act so in defiance of both the law and the facts, and so in opposition to his own better knowledge, that he has no right to complain of the loss of his franchise, the exercise of which he has wantonly misapplied."

ELECTIONS—WHO ARE "ELECTORS"—WOMEN.—After the women had voted in a municipal bond election as authorized by statute, the authorities refused to count such votes toward the required majority but considered only